Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 205554

In the Matter of	)	
	)	
Lifeline and Link Up	)	WC Docket No. 11-42
Reform and Modernization	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Lifeline and Link Up	)	WC Docket No. 03-109

Joint Reply comments of the

MONTANA TELECOMMUNICATIONS ASSOCIATION
and
MONTANA INDEPENDENT TELECOMMUNICATIONS SYSTEMS

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Introduction:

The Montana Telecommunications Association (MTA)[1] and the Montana Independent Telecommunications Systems (MITS),[2] (the Montana Associations) concur with a number of the comments submitted in this proceeding ("Lifeline NPRM") by USTelecom on April 21, 2011.[3] The Associations emphasize that dramatic growth of the Low Income program's Lifeline support, even without potentially substantial new funding commitments proposed in the Lifeline NPRM, may impede other Universal Service Programs, including the High Cost Program, increase rates, impose additional unsupported costs on eligible telecommunications carriers (ETCs), reduce investment in broadband infrastructure, force states to absorb or impose additional costs on telecommunications consumers, or some combination of all of the above.

The Montana Associations concur with the reply comments filed by the Montana Public Service Commission (MPSC) on May 17, 2011.[4] Specifically, MPSC points out that several states have enacted their own Lifeline programs through state statute. To the extent that the FCC changes definitions, eligibility

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[1] MTA, in its 56th year, represents telecommunications service providers serving over 90 percent of Montana's residential and business consumers. MTA members offer a full spectrum of advanced communications services, including broadband data and video telecommunications solutions for commercial, residential, health care, education, emergency and other markets. MTA members have invested over $1 billion in Montana's telecommunications infrastructure and continue to invest approximately $100 million each year in new facilities and services throughout the state. They provide access to broadband Internet service to over three-quarters, and often nearly 100%, of their customers. MTA members employ, with outstanding salaries and benefits, nearly 800 proud Montanans who are dedicated to their jobs, their communities and the state's economic development.

[2] MITS members are Nemont Telephone Cooperative, Northern Telephone Cooperative, Project Telephone Company, Triangle Telephone Cooperative Association, Central Montana Communications, InterBel Telephone Cooperative and Mid-Rivers Telephone Cooperative, Inc. They service areas that are among the most remote, sparsely populated, and high-cost areas within the continental United States Their service areas range from approximately 1,000 to 30,000 square miles, with an average population density of 1.6 persons per square mile. They provide quality telecommunications and broadband access throughout their service areas.

[3] *In the Matter of Lifeline and Linkup Reform and Modernization* (WC Docket No. 11-42), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *Lifeline and Link Up* (WC Docket No. 03-109). Comments of the United States Telecom Association. April 21, 2011.

[4] *In the Matter of Lifeline and Linkup Reform and Modernization* (WC Docket No. 11-42), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *Lifeline and Link Up* (WC Docket No. 03-109). Reply Comments of the Montana Public Service Commission. May 17, 2011.

requirements, and other facets of the Lifeline program, it is highly probable that state statutory amendments may need to be enacted, and there's no guarantee that Legislatures will enact conforming statutes.

<u>FCC Should Use Caution in Adopting Recommendations which May Require State Statutory Amendment</u>

The administration and oversight of the Montana Telephone Low-Income Assistance Program is coordinated between two separate state agencies. The Montana Public Service Commission sets the level of discounts for eligible subscribers, while the MT Department of Public Health and Human Services (MT DPHHS) facilitates enrollment and certifies eligibility. The two agencies have worked together to ensure maximum participation in the program. The FCC's proposed changes in definition and eligibility will require computer hardware and software upgrades in Social Services offices throughout the State. Information regarding participation in Sate and Federal programs is not located in one main database within the State. In fact, even the data for DPHHS programs is not centrally located. The Department believes populating a national database would be problematic; and coordinated enrollment would be difficult, at best, to implement in Montana. Absent a strong turnaround in the State and National economies, it is doubtful that the 2013 Montana Legislature will increase funding to any state agency, including DPHHS.

The Montana Public Service Commission's reply comments recommend

> that the FCC not make any changes that would require states to initiate legislative action to be in compliance with new FCC regulations. The MPSC requests consideration be given to states like Montana that require legislation to conform their Lifeline/Linkup programs to the new proposed FCC requirements. Lifeline/Linkup recipients in Montana should not lose their access to those programs' benefits simply because the Montana legislature will not have the opportunity to consider changing the law until 2013.[5]

[5] *Id*. p.2.

Even, then, it's possible that the Legislature would fail to enact conforming legislation.

The Montana Associations concur with the MPSC and urge the FCC not to make changes that would require states to initiate legislative action to be in compliance with new FCC regulations.

The FCC Should Not Expand the Cost of the Lifeline Program without Expanding the Size of the Universal Service Fund or Removing the Program from the Universal Service Fund Altogether

The Lifeline NPRM seeks comment on raising the eligibility income threshold from 135 percent of the Federal Poverty Guidelines (FPG) to 150 percent.[6] The NPRM also seeks comment on "whether the Commission should amend the definition of Lifeline to explicitly allow support for broadband."[7]

Meanwhile, the Low Income Program has no funding cap. This has resulted in dramatic growth of the Program since 2008, primarily the result of the entry of prepaid wireless Lifeline ETCs.

> Program participation was stable from 2005 to 2008, from 6.9 million to 7.1 million participants, but increased to 8.6 million in 2009. Likewise, support payments were relatively stable from 2005 to 2008, from $802 million to $823 million annually, before increasing to approximately $1 billion in 2009…[P]articipation and payments will likely continue to increase beyond 2010 as prepaid wireless service options become available in additional states.[8]

Further, the Universal Service Administrative Company (USAC) estimates that only 35 percent of potentially eligible Lifeline consumers are receiving Lifeline support today. Or, 65 percent of potential Lifeline recipients are not receiving Lifeline support. If we were to reach 100 percent of all eligible Lifeline recipients (without addressing the FPG or broadband recommendations), through

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[6] Before the Federal Communications Commission. *In the Matter of Lifeline and Linkup Reform and Modernization* (WC Docket No. 11-42), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *Lifeline and Link Up* (WC Docket No. 03-109). Notice of Public Rulemaking. ("Lifeline NPRM") Rel. March 4, 2011. ¶157.
[7] *Id*. ¶275, *et seq*.
[8] "Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program." U.S. Government Accountability Office. GAO-11-11. October, 2010.

coordinated enrollment and other proposals to expand the use of Lifeline support, the cost of the Lifeline Program could increase from its current $1.4 billion to more than $4 billion.

The Montana Associations understand that initiatives aimed at mitigating duplicate support, limiting support to only one connection per household or residence, and other proposals to address waste, fraud and abuse will to some degree make the program more efficient and save the program from incurring costs that otherwise may have been incurred wastefully. It is doubtful under any construct however to imagine that savings incurred through waste, fraud and abuse mitigation will counterbalance the rapid growth of the Lifeline Program, even before considering program expansion recommendations like raising the FPG threshold or revising the definition of Lifeline to include broadband.

The Montana Associations wish to make clear that they do not oppose efforts to increase the Lifeline Participation rates or to expand the definition of Lifeline to include broadband access. Rather than expanding the FPG threshold, the Montana Associations support expanded outreach and enrollment facilitation by social service agencies in conjunction with their administration of other federal programs that assist low-income individuals and families. Utilizing any FPG threshold is administratively burdensome for verifying and certifying eligibility. The Montana Associations support elimination of the FPG threshold in light of the current wide range of income-based public assistance programs that also are currently used for determining Lifeline and LinkUp eligibility in most states.

The Montana Associations oppose initiatives that will either expand the size of the Lifeline Program at the expense of other Universal Service Programs,[9] primarily the High Cost Program, or impose additional costs on states, ETCs, and ultimately the consumers who will bear the costs by incurring increased rates and/or fees. If the Universal Service Fund is capped at 2010 levels as articulated in the National Broadband Plan and reiterated frequently by Commissioners, then

[9] See GAO, *op cit*. "FCC's Proposed Addition of Broadband Service Could Increase Future Participation and Payments." p.21.

additional costs associated with expanded Lifeline participation or service obligations will constitute an unfunded mandate.[10]

If the FCC "freezes" the Lifeline Program and all Universal Service Programs[11] at roughly their current size while maintaining the overall Universal Service Fund at roughly its 2010 level,[12] it is difficult to see how any of the program enhancement recommendations in the Lifeline NPRM could be attained.

Given the conflicting pressures of expanding Lifeline Program eligibility and services and simultaneously maintaining current fund size, The Montana Associations recommend the following:

1. Freeze all new Lifeline ETC applications. It makes no sense to continue to grant additional Low Income/Lifeline ETCs while the GAO has pointed out clearly that the program lacks appropriate goals and measurements, and USAC currently is reviewing the GAO's recommendations in behalf of the Commission.[13] Further, it makes no sense to proceed with designation of additional ETCs before the various recommendations contained in the Lifeline NPRM—many of which will increase the cost of the Low Income Program without having identified the source of such funding—are costed and priced.[14]
2. Gather performance data regarding actual cost savings and expenses associated with proposed reforms.[15]
3. The Montana Associations concur with the USTelecom comments that the Commission should petition Congress to provide general revenues to fund

[10] See USTelecom. "given the Commission's concerns about growth in the Lifeline fund and its overall size it would be counterproductive for it to expand eligibility for Lifeline support, particularly given the absence of any record evidence supporting such a change." *Op cit.* p.iv.
[11] The four Universal Service Programs are: High Cost, Low Income (Lifeline/Linkup), Schools & Libraries, and Rural Health Care.
[12] However, the associations note that the Schools & Libraries program is indexed for inflation and the Commission has already proposed expanding the Rural Health Care Program from roughly $60 million to $400 million annually.
[13] Letter to Scott Barash, Acting CEO, Universal Service Administrative Company, from Steven VanRoekel, Managing Director, Federal Communications Commission. January 25, 2011. "We direct…USAC to take steps to implement the recommendations in the October 2010 U.S. Government Accountability Office Report…to identify risks, strengthen internal controls, and improve the efficiency and effectiveness of administration for the low-income program."
[14] USTelecom, *op cit*., pp.10-11.
[15] See GAO, *op cit*. p.24, *et seq*.

the Lifeline and Link Up assistance programs rather than fund the programs through industry-specific assessments.[16] Broadband adoption arguably may be even more important than broadband deployment as the nation approaches widespread broadband deployment. As the Commission recently reported in its "706 Report," as many as "26 million Americans living in more than 9.2 million households are unserved by broadband today." However, "approximately one-third of all Americans have not adopted Internet access at all."[17]

ETCs Should not Bear the Costs of Proposed Lifeline NPRM Reforms

Several recommendations in the Lifeline NPRM may add substantial administrative expenses to ETC's operational expenses (OPEX). For example, if ETCs are required to perform additional verification obligations, pro-rata reporting requirements, eligibility certifications, or other recommendations, it is entirely conceivable that such additional expense burdens will need to be passed through to consumers, or taxpayers in the form of a state funding mechanism—which would require statutory enactment.[18]

In Montana, ETCs currently absorb the $3.50 per Lifeline customer per month state portion of Lifeline support. While authorized to include this $3.50 lifeline cost on their billing statements, ETCs in Montana currently do not. However, with additional expenses associated with the potential implementation

[16] USTelecom. "Assessing communications providers' customers for the funding of low-income discount plans is counterproductive as it effectively raises the price of service, discouraging adoption and/or usage of communications services… The Commission should not have to make the Hobson's choice between providing adequate funding within a reasonable total fund size for programs encouraging adoption and availability." *Op cit.*, p.3.

[17] Seventh Broadband Adoption Report and Order on Reconsideration. FCC 11-78. Rel. May 20, 2011. p.28. [emphasis added.]

[18] Compliance requirements should be reasonable and not impose additional or excessive administrative costs on small companies. For example, the proposal to require ETCs to chase down customers to determine the truthfulness of subscriber statements is unreasonable and ineffective. ETCs should not be required to adjudicate contradictory certifications of subscribers' eligibility for the Lifeline program.

of recommendations in the Lifeline NPRM, it will be increasingly difficult for ETCs to avoid imposing the $3.50 fee on their consumers' monthly billing statements.[19]

Conclusion

The Montana Associations appreciate the Commission's efforts to the reduce waste, fraud and abuse in the Lifeline Program. We caution, however, against reforms which effectively will impose additional costs on states or ETCs which, ironically, may need to raise rates to pay for such reforms—contrary to the intent of the Lifeline Program to increase affordability of telecommunications services to low income Americans. The Associations caution, too, against implementing reforms which would expand the size (e.g., 150% of FPG) and scope (e.g., including broadband) of Lifeline Program without providing commensurate increases in the level of Lifeline funding. However, any reforms should not be made at the expense of other Universal Service programs.

Given the conflicting goals of expanding the size and scope of the Lifeline Program and maintaining the Universal Service Fund and its programs at roughly today's levels (a goal with which the Montana Associations do not concur), the Montana Associations recommend that the Lifeline Program and related broadband adoption efforts be funded by general fund revenues, not by the Universal Service Fund. The Montana Associations further recommend that the Commission gather data regarding specific, actual costs and efficiencies gained by proposed reforms, and that no additional Low Income ETC applications be granted until recommendations of the GAO and Lifeline NPRM are implemented and tested.

[19] Staff Memorandum to Montana Public Service Commissioners. April 12, 2011. "If all eligible customers received the benefit, the Lifeline discount that is not reimbursable and being absorbed by the carriers ($3.50 in Montana) would rise significantly, resulting in carriers possibly having to request approval to raise rates to cover their cost."

Respectfully Submitted,

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